

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

Criminal Action No. 09-MJ-461

v.

(George H. Lowe)

FLAY ROOD,

STIPULATION FOR  
ENLARGEMENT OF TIME

Defendant.

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STIPULATION

It is hereby stipulated and agreed, by and between the defendant, FLAY ROOD (by, Melissa Tuohey Esq.), and Richard S. Hartunian United States Attorney for the Northern District of New York (by Lisa M. Fletcher, Assistant United States Attorney), that the time within which an indictment must be filed under the provisions of Title 18, United States Code, Section 3161(b), be enlarged to and including sixty (60) days from the date of the signing of this Order and that time be excluded, pursuant to Title 18, United States Code, Section 3161(h)(7)(A), from the computation of the time within which an indictment must be filed under the provisions of Title 18, United States Code, Section 3161(b).

1. The chronology of this case is as follows:
  - a. Date of complaint: 9-28-09
  - b. Date of initial appearance: 9-30-09
  - c. Defendant custody status: detained Cayuga County Jail
    - i. Date United States moved for detention: 9-30-09

ii. Date of detention hearing: waived 9-30-09

iii. Date detention decision issued: 10-1-09

d. Order dated October 13, 2009 excluded the period between and including October 13, 2009 and December 30, 2009; Order dated December 30, 2009 excluded the period between December 30, 2009 and March 1, 2010.

2. The united States and the defendant have requested the continuance based on the following facts and circumstances:

a. Forensic analysis of defendant's computer has recently been completed, and the report and images have been disclosed to defense counsel. This analysis has revealed two additional minor victims of whom pornographic images were apparently taken by the defendant. One of those victims was recently identified in Florida, and the reports regarding that identification are being gathered to provide to counsel. The other two victims are local, and the parties are attempting to determine whether the charges relative to the Florida victim can be venued in the Northern District of New York or should be prosecuted in Florida. Accordingly the parties stipulate and agree that the ends of justice served by granting this continuance outweigh the best interests of the public and the defendant in a speedy trial because as the case involves three minor victims from two different states, the arrest occurred at a time such that it is unreasonable to expect return and filing of an indictment within the period specified in section 3161(b), taking into account the exercise of due diligence (3161(h)(7)(B)(iii)) and accordingly, as pertinent facts upon which the grand jury must base its determination are tied to this forensic examination, it is unreasonable to expect return and filing of an indictment within the period specified in section 3161(b), taking into account the exercise of due diligence (3161(h)(7)(B)(iii))


b. Furthermore, the parties anticipate that the pre-indictment disclosure of the forensic results may likely result in a disposition of this matter within the additional time requested.

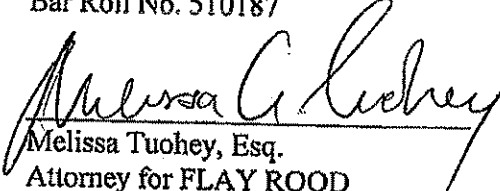
3. The parties stipulate and agree that the time period from the date of this order, to and including 60 days from the issuance of and Order, shall be excludable under the Speedy Trial Act pursuant to 18 U.S.C. § 3161(h)(7)(A) and (h)(7)(B)(iii).

The undersigned attorneys affirm under penalty of perjury the accuracy of the facts set forth above and apply for and consent to the proposed order set forth below.

Dated: 3/2, 2010

RICHARD S. HARTUNIAN  
United States Attorney

By:   
Lisa M. Fletcher  
Assistant U.S. Attorney  
Bar Roll No. 510187

  
Melissa Tuohey, Esq.  
Attorney for FLAY ROOD  
Bar Roll No. 510807

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ORDER FOR ENLARGEMENT

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ORDER

A. The Court incorporates into this Order the stipulated facts set forth above and hereby adopts them as findings.

B. The Court has considered its obligation under 18 U.S.C. § 3161(h)(7)(A) to determine whether a continuance serves the ends of justice in a manner that outweighs both the public interest and the defendant's rights. The Court finds that pursuant to 18 U.S.C. § 3161(h)(7)(A), the ends of justice served by granting the requested continuance outweigh the best interests of the public and the defendant in a speedy trial because as the case involves three minor victims from two different states, the arrest occurred at a time such that it is unreasonable to expect return and filings of an indictment within the period specified in section 31619(b), and the delay is necessary in order to allow the parties the reasonable time necessary for effective preparation, taking into account the exercise of due diligence. (3161(h)(7)(B)(iii) and (iv)

1. This delay is necessary in order to allow the United States reasonable time following the arrest of the defendant for effective preparation for the return and filing of an indictment, taking into account the exercise of due diligence.

BASED ON THE STIPULATED FACTS AND THE COURT'S RELATED FINDINGS IT IS HEREBY ORDERED that the time within which an indictment must be filed under the provisions of Title 18, United States Code, Section 3161(b), be enlarged to and including sixty (60) days from the date of the signing of this Order and that time be excluded, pursuant to Title 18, United States Code, Section 3161(h)(7)(A), from the computation of the time within which an indictment must be filed under the provisions of Title 18, United States Code, Section 3161(b), because the ends of justice served by granting this continuance outweigh the best interests of the public and the defendant in a speedy trial for the reasons stipulated above.

Dated: \_\_\_\_\_, 2010

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George H. Lowe  
United States Magistrate Judge